

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ORLANDUS FRANK CALHOUN, SR.,

Plaintiff,

CASE NO. 2:21-cv-10475

v.

HONORABLE NANCY G. EDMUNDS

G. MINIARD, C. WALKER,
A. PRATT, MR. LAPLANT, and
HEIDI WASHINGTON, *et al.*,

Defendants.

ORDER DISMISSING THE COMPLAINT AND CLOSING THIS CASE

Plaintiff Orlandus Frank Calhoun, Sr., a state prisoner in the custody of the Michigan Department of Corrections (MDOC), filed a *pro se* complaint for money damages and injunctive relief under 42 U.S.C. § 1983. ECF No. 1. Plaintiff alleged that the defendants, who are employed by MDOC, violated his right to humane living conditions from November 20, 2020, to the date of his complaint (January 4, 2021), by failing to provide him and other inmates with adequate heat in their cells. *Id.* at PageID.5, 9.

Plaintiff sued the defendants only in their official capacity, *id.* at PageID.2-4, and the Supreme Court has made clear that, in a § 1983 action, state officials cannot be sued for money damages in their official capacity because they assume the

identity of the government that employs them. *See Hafer v. Melo*, 502 U.S. 21, 27 (1991) (citing *Will v. Michigan Dep't of State Police*, 491 U.S. 58, 71 (1989)). Accordingly, on April 19, 2021, the Court dismissed Plaintiff's claim for money damages. ECF No. 6. The Court also ordered Plaintiff to show cause why his claim for injunctive relief was not moot due to warmer temperatures or the possibility that the mechanical problem which caused the lack of heat had been resolved. The Court stated that any failure to comply with the Court's order within thirty days of the order could result in the dismissal of the complaint. *Id.* at PageID.52.

Plaintiff did not file a response to the Court's order, and more than thirty days have expired since the Court's previous order in this case. The Court concludes from the lack a response that Plaintiff no longer has an interest in pursuing his claim for injunctive relief, which is the only remaining claim in the case. Accordingly, the claim for injunctive relief is denied, and the complaint is dismissed for want of prosecution. Fed. R. Civ. P. 41(b); E.D. Mich. LR 41.2; *Link v. Wabash R.R. Co.*, 370 U.S. 626, 629-633 (1962). This case is now closed.

IT IS SO ORDERED.

Dated: June 28, 2021

s/ Nancy G. Edmunds
NANCY G. EDMUNDS
UNITED STATES DISTRICT JUDGE